

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN P. O'CONNOR and ANTHONY )  
HELFER, Trustees of THE UFCW )  
LOCAL 23 AND EMPLOYERS PENSION )  
FUND, ) Civil Action No.  
)  
Plaintiffs, )  
)  
vs. ) *This document was  
electronically filed.*  
)  
E.J. FOODS, LLC )  
)  
Defendant. )  
)

COMPLAINT

1. Plaintiffs are Trustees of the UFCW Local 23 and Employer Pension Fund ("Fund") and bring this action on behalf of the Fund to recover withdrawal liability payments owed by E.J. Foods, LLC.

2. Defendant E.J. Foods, LLC was a contributing employer to the Fund and ceased contributing to the Fund.

3. The Trustees determined that E.J. Foods, LLC affected a complete withdrawal from the Fund within the meaning of Section 4203 of ERISA, 209 U.S.C. §1382.

4. The Fund sent a letter to E.J. Foods, LLC demanding withdrawal liability in the total amount of \$29,242.00 and established a date of sixty (60) days from the date of the

demand to make the initial payment in accordance with ERISA Section 4219, 29 U.S.C. §1399.

5. E.J. Foods, LLC failed to make the initial payments or any other subsequent payments.

6. A demand letter was sent to E.J. Foods, LLC on April 6, 2006, requesting payment of the outstanding principal and interest within sixty (60) days.

7. E.J. Foods, LLC has failed to pay in accordance with that demand.

8. This court has subject matter jurisdiction pursuant to 28 U.S.C. §1331, as this action is based upon liability arising under ERISA. Venue is proper in this district pursuant to Section 4301(d) of the Multiemployer Pension Plan Amendments Act, 29 U.S.C. §1451(d).

9. By reason of E.J. Foods, LLC default and pursuant to Section 4219(c)(5) of MPPAA, 29 U.S.C. §1399(c)(5), E.J. Foods, LLC is obligated to the Fund in the principal amount of \$29,242.00.

10. Pursuant to Section 4301(b) of the Multiemployer Pension Plan Amendments Act (MPPAA), 29 U.S.C. §1451(b), Sections 515 and 502(g) of ERISA, U.S.C. §1145 and §1132(g), E.J. Foods, LLC is obligated for the payment of interest on the delinquent installments, liquidated damages and counsel fees.

WHEREFORE, Plaintiffs request the following relief against Defendant:

1. Principal in the amount of \$29,242.00.
2. Interest in accordance with the terms of the Fund's Delinquency Policy.
3. Liquidated damages in the amount of five (5%) percent per month up to a maximum of twenty-five (25%) percent or double interest, whichever is higher.
4. The award of counsel fees and expenses in this action.
5. Such other relief as the Court may deem just and appropriate.

Respectfully submitted,

MEYER, UNKOVIC & SCOTT LLP

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